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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,194	11/13/2001	Srinivas Gutta	US010571	3031

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EXAMINER

LAYE, JADE O

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/014,194	GUTTA, SRINIVAS	
	Examiner	Art Unit	
	Jade O. Laye	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/13/01, 2/3/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

I. The information disclosure statements (IDS) submitted on 11/13/01 and 2/3/03 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements have been considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

II. Claims 1-3, 6, 7, 10-12, 15, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by *Lawler*. (US Pat. No. 5,758,259).

As to Claim 1, *Lawler* discloses an automatic selective programming guide which analyzes viewing behaviors from various sources (such as other household members, critics, etc.) and generates a recommendation for a user based upon said behaviors. (Abstract; Col. 2, Ln. 38-

44; Col. 4, Ln. 50-57; Col. 9, Ln. 35-Col. 10, Ln. 19; Fig. 3B). It is inherent *Lawler's* system generates some form of a "score" in order to decide which programs most closely match the viewing behaviors. Accordingly, *Lawler* anticipates each and every limitation of Claim 1.

Claims 10 and 19 correspond to Claim 1. (Note: the memory and processor of Claim 10 is disclosed at Fig. 2; Col. 4, Ln. 17-26; & Col. 9, Ln. 19-27). Thus, each is analyzed and rejected as previously discussed.

As to Claim 2, *Lawler* further teaches the user's own history can be used in generating recommendations. (citations of Claim 1). Accordingly, *Lawler* anticipates each and every limitation of Claim 2.

Claims 11 and 20 correspond to Claim 2. Thus, each is analyzed and rejected as previously discussed.

The limitations of Claim 3 are encompassed within the limitations of Claim 1. In order for the system to generate a combined recommendation based upon other third party viewing histories, it must somehow "average" the viewing habits of said third parties. Accordingly, *Lawler* anticipates each and every limitation of Claim 3.

Claim 12 corresponds to Claim 3. Thus, it is analyzed and rejected as previously discussed.

As to Claim 6, *Lawler* further teaches the recommended items can be programs. (citations of Claim 1). Accordingly, *Lawler* anticipates each and every limitation of Claim 6.

Claim 15 corresponds to Claim 6. Thus, it is analyzed and rejected as previously discussed.

As to Claim 7, *Lawler* further teaches the recommended items can be “content” (i.e., programs can be broadly interpreted as “content”). (citations of Claim 6). Accordingly, *Lawler* anticipates each and every limitation of Claim 7.

Claim 16 corresponds to Claim 7. Thus, it is analyzed and rejected as previously discussed.

III. Claims 1-3, 6, 7, 10-12, 15, 16, 19, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by *Gutta et al.* (US Pat. Pub. 2002/0174429).

As to Claim 1, *Gutta et al* disclose a method for generating recommendation scores, which obtains scores from various program recommenders and generates a combined recommendation score in order to facilitate programming selection for a user. (Abstract; Par. [0016]). Accordingly, *Gutta et al* anticipate each and every limitation of Claim 1.

Claims 10 and 19 correspond to Claim 1. Thus, each is analyzed and rejected as previously discussed.

As to Claim 2, *Gutta* further teaches the user’s own history can be used in generating recommendations. (citations of Claim 1 and Par. [0035]). Accordingly, *Gutta et al* anticipate each and every limitation of Claim 2.

Claims 11 and 20 correspond to Claim 2. Thus, each is analyzed and rejected as previously discussed.

The limitations of Claim 3 are encompassed within the limitations of Claim 1. In order for the system to generate a combined recommendation based upon other third party viewing

histories, it must somehow “average” the viewing habits of said third parties. Accordingly, *Gutta et al* anticipate each and every limitation of Claim 3.

Claim 12 corresponds to Claim 3. Thus, it is analyzed and rejected as previously discussed.

As to Claim 4, *Gutta* further teaches the use of a remote recommender. (citations of Claim 1). Accordingly, *Gutta et al* anticipate each and every limitation of Claim 4.

Claim 13 corresponds to Claim 4. Thus, it is analyzed and rejected as previously discussed.

As to Claim 6, *Gutta* further teaches the recommended items can be programs. (citations of Claim 1). Accordingly, *Gutta et al* anticipate each and every limitation of Claim 6.

Claim 15 corresponds to Claim 6. Thus, it is analyzed and rejected as previously discussed.

As to Claim 7, *Gutta* further teaches the recommended items can be “content” (i.e., programs can be broadly interpreted as “content”). (citations of Claim 6). Accordingly, *Gutta et al* anticipate each and every limitation of Claim 7.

Claim 16 corresponds to Claim 7. Thus, it is analyzed and rejected as previously discussed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

IV. Claims 4, 5, 9, 13, 14, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Lawler* in view of *Maissel et al.* (US Pat. No. 6,637,029).

Claim 4 recites the method of Claim 1, wherein said obtaining step further comprises the step of receiving said third party recommendation score from a remote recommender. As discussed above, *Lawler* anticipates each and every limitation of Claim 1, but fails to disclose a remote recommender. However, within the same field of endeavor, *Maissel et al* disclose a similar system which comprises a remote recommender. (Fig. 8). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Lawler* and *Maissel* in order to provide a more cost efficient recommendation system.

Claim 13 corresponds to Claim 4. Thus, it is analyzed and rejected as previously discussed.

Claim 5 recites the method of Claim 4, wherein said received third party recommendation includes an indication of whether said corresponding recommended item was selected by said third party. As discussed above, the combined systems of *Lawler* and *Maissel* disclose all limitations of Claim 4, and *Lawler* further teaches the system displays which items were selected by various parties. (Fig. 3B). Accordingly, the combined systems of *Lawler* and *Maissel* disclose all limitations of Claim 5.

Claim 14 corresponds to Claim 5. Thus, it is analyzed and rejected as previously discussed.

Claim 9 recites the method of Claim 1, wherein said third party is a selected individual. As discussed above, *Lawler* anticipates each and every limitation of Claim 1, but fails to disclose those of Claim 9. However, *Maissel* further teaches a user can select whether he or she desires critic recommendations to be included. (Col. 12, Ln. 46-Col. 13, Ln. 9). Accordingly, the combined systems of *Lawler* and *Maissel* disclose all limitations of Claim 9.

Claim 18 corresponds to Claim 9. Thus, it is analyzed and rejected as previously discussed.

V. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Lawler* in view of *Herz et al.* (US Pat. No. 5,754,939).

Claim 8 recites the method of Claim 1, wherein said one or more items are products. As discussed above, *Lawler* anticipates each and every limitation of Claim 1, but fails to disclose those of Claim 8. However, within the same field of endeavor, *Herz et al* disclose a similar system which also provides products. (Col. 6, Ln. 34-Col. 7, Ln. 10). Accordingly, it would

have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Lawler* and *Herz* in order to provide a system with more user interactive services.

Claim 17 corresponds to Claim 8. Thus, it is analyzed and rejected as previously discussed.

Conclusion

VI. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. *Barsness et al* (US Pat. Pub. No. 2003/0115585) discloses a system which aggregates various profiles to generate recommendations.
- b. *Gutta et al* (US Pat. Pub. No. 2003/0066067) disclose a similar system.
- c. *Gutta et al* (US Pat. Pub. No. 2003/0066068) disclose a similar system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

Art Unit: 2617

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye

Initials: JL

January 6, 2006.



VIVEK SRIVASTAVA
PRIMARY EXAMINER